

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

<b>MATTHEW HEADLEY HOLDINGS, LLC,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No.: 02-CV-00654-FJG</b>
	)	
<b>McCLEARY, INC., et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**JOINT MOTION TO DEPOSIT MONETARY JUDGMENT  
WITH THE COURT AND TO DISBURSE A PORTION THEREOF**

**COMES NOW** Plaintiff Matthew Headley Holdings, LLC (“MMH”) and Defendant McCleary, Inc., (“McCleary”) by and through the undersigned counsel, and pursuant to 28 U.S.C. §§ 2041, 2042 and F.R.C.P. 67, respectfully request that the Court enter an order permitting deposit of the monetary judgment entered in this matter with the Court, and partial disbursement in the manner outlined herein below. In support thereof, the parties state as follows:

1. This case was tried to a jury and a verdict delivered on August 12, 2004. There were post-judgment motions and this Court entered judgment for \$6,450,000.00. An appeal was taken and the Eighth Circuit Court of Appeals has rendered an opinion reducing the judgment to the amount of Two Million One Hundred Fifty Thousand (\$2,150,000). The parties have agreed to the amount of post-judgment interest and costs, and agree the total amount due on the judgment as of June 7, 2006 is the sum of Two Million Two Hundred Forty Thousand Five Hundred Fifty Three Dollars and Sixty Five

Cents (\$2,240,553.65).

2. The parties agree and jointly request that pursuant to 28 U.S.C. §§ 2041 and 2042, and Fed. R. Civ. P. 67, this Court permit and authorize defendant McCleary, Inc. to pay and satisfy that judgment by depositing the judgment amount with the Clerk of the Court. Upon receipt of such payment the parties agree that the judgment should be deemed satisfied and that the bond posted by defendant McCleary (Doc #391) should be discharged, released and exonerated.

3. The reason for this procedure is that defendant McCleary has been put on notice by four of Plaintiff's creditors that those creditors claim a lien against the judgment proceeds. Those creditors and the approximate amount of their claims are: Blackwell Sanders Peper Martin, LLP (\$278,000), Affinity Snack Food Company (\$131,000), and Shearer's Foods (\$130,000), and Polsinelli Shalton Welte Suelthaus PC (\$39,916). Plaintiff disputes the amounts of these claims and does not want McCleary to pay them. Plaintiff likewise does not want to burden McCleary with the inconvenience of determining the validity of the liens or to delay satisfaction of the judgment. The agreed-upon procedure solves all these concerns. It allows McCleary, Inc., to pay without the worry of a lien-holder claiming their lien was ignored, it allows plaintiff to obtain control over most its funds, and it provides a forum for resolving the lien claims if they cannot be worked out amicably.

4. There is no dispute over the amount of attorney fees and expenses owed by Plaintiff to its trial lawyers, and the parties request that the Court order the Clerk to issue

checks to the following three law firms in the amounts shown as follows:

The Healy Law Firm, LLC	\$515,629.09
1100 Main Street, Suite 2600	
Kansas City, Missouri 64105	

The Law Offices of Tim Dollar, LC	\$512,191.45
1100 Main Street, Suite 2600	
Kansas City, Missouri 64105	

Bartimus, Frickleton, Robertson	\$113,304.66
& Gorney, PC	
1100 Main Street, Suite 2630	
Kansas City, Missouri 64105	

5. The proceeds remaining after disbursement of said attorneys' fees and litigation expenses are sufficient to protect the monetary interests claimed by the four creditors known to defendant McCleary.

**WHEREFORE**, based on the foregoing, Plaintiff and Defendant McCleary jointly request that the Court enter the attached order permitting deposit of the judgment proceeds with the Court and disbursement in accordance therewith, declaring the judgment satisfied in full and ordering that the Supercedeas Bond (Doc #391) separately, as amended by, and together with the Bond Change Rider (Doc #431) be fully and unconditionally discharged, released and exonerated and that Travelers Casualty and Surety Company of America, as surety, and its parent, affiliates and subsidiaries and McCleary, Inc., as principal are hereby released from any and all past, present and future liability in connection with the issuance of the Supercedeas Bond and/or the Bond Change Rider.

Respectfully Submitted,

/s/ Michael P. Healy

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ATTORNEYS FOR DEFENDANT

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on June 7, 2006 the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to Defendant's Attorney of Record.

/s/ Michael P. Healy

Attorney for Plaintiff